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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

LISTS OF ECONOMIC NEEDS TESTS IN THE GATS SCHEDULES OF SPECIFIC COMMITMENTS

Executive Summary

The majority of countries have maintained the right to use economic needs tests to regulate trade flows in their GATS schedules of specific commitments on services. Movement of natural persons supplying services is most frequently affected by the need to pass quantitative and/or qualitative tests. Only 22 WTO member countries have clearly indicated those few categories of natural persons for which such tests do not apply. Developing countries have exhibited comparative advantage of trade in services through the movement of natural persons, but economic needs tests detract from the predictability of trading opportunities available to them. Further liberalization of trade in services cannot succeed without addressing the issue of economic needs test. Since many countries would hardly be ready to abandon the use of such tests at present, guidelines related to criteria, duration and procedures for application could be developed multilaterally. Furthermore, developing countries would benefit if - at least for selected categories of natural persons as service providers - non-application of economic needs tests were to be extended to selected services sectors. The use of economic or similar tests in other instruments regulating market access should be prevented. In addition, each WTO member country could establish thresholds below which such tests would not apply by way of minimum quotas for entry of natural persons supplying services.

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A. Main concerns with the use of economic needs tests

1. Economic needs tests have been identified as a barrier to market access under Article XVI of the WTO General Agreement on Trade in Services (GATS). However, neither the definition of an economic needs test, nor the rules, criteria or procedures for its application were elaborated. As a result, economic needs tests may have a more or less distortive impact on trade depending on the manner in which they are implemented. At the same time, legal provisions are absent in the GATS to challenge any rejection on the basis of the economic needs test. This also limits the possibilities for comparison of the scope of needs tests among countries. Though economic needs tests are scheduled with respect to all GATS modes of supply of services, i.e. cross-border trade (mode 1), consumption abroad (mode 2), commercial presence (mode 3) and presence of natural persons (mode 4), the last of these is the one most frequently subjected to tests, whether the service concerned is supplied under mode 4 or in conjunction with mode 3. Thus, the presence of economic needs tests remains a major trade barrier to the movement of natural persons as service suppliers. Transparency is a prerequisite to being able to assess existing trading opportunities, but economic needs tests make this process less predictable and stable and more burdensome. The main issue is how to decrease the degree of subjectivity associated with economic needs tests.

B. Economic needs tests in specific commitments concerning all sectors

2. The exception to general situation concerns a few countries which have stated in their GATS commitments for all sectors that an economic needs test does not apply to market access in mode 4 for a few categories of services providers (see table 1).

TABLE 1

Economic needs tests exemption list

Country	Relevant extracts from national schedules of specific commitments
Australia	Independent executives, without requiring compliance with labour market tests, for periods of initial stay up to a maximum of two years. Service sellers, as business visitors, without requiring compliance with labour market tests, for periods of initial stay of 6 months and up to a maximum of 12 months. Specialists: Labour market testing is not required for (i) natural persons who have specialized knowledge at an advanced level of a proprietary nature of the company's operations and have been employed by the company for a period of not less than two years and (ii) if the position in question is within a labour agreement in force at the time of application.
Austria	Temporary stay and work of natural persons falling within the following categories, without requiring compliance with an economic needs test and under the condition that all other requirements of Austria's laws and regulations regarding entry, stay and work shall continue to apply: intra-corporate transferees; persons working in a senior position within a juridical person; persons working within a juridical person who possess uncommon knowledge essential to the establishment's service.
Czech Republic	Temporary entry, stay and work, without requiring compliance with economic needs test, of the following categories of natural persons supplying services: as intracorporate transferees; business visitors.
European Union	Measures concerning the entry into and temporary stay within a Member State, without requiring compliance with an economic needs test, of the following categories of natural persons providing services: intra-corporate transferees (senior management, persons who possess uncommon knowledge essential to the establishment's service, business visitors (with reservations for France and Italy).

Country	Relevant extracts from national schedules of specific commitments
Finland	Executives and managers – without requiring compliance with labour market tests to persons who primarily direct the management of the organization or its department.
Iceland	Intra-corporate transferees, which Iceland shall permit without requiring compliance with labour market tests: executives, managers, specialists, service sellers.
Israel	Israel shall permit, without requiring compliance with labour market tests, the temporary entry of service providers as intra-corporate transfers in the following categories: executives, managers.
Norway	Temporary presence and without requiring compliance with an economic needs test of categories: executives, managers, specialists, business visitors.
Slovakia	Temporary entry, stay and work, without requiring compliance with economic needs test, of the following categories of natural persons providing services: intra-corporate transferees, essential senior executives; specialists who possess high or uncommon qualifications and knowledge essential to the establishment's service, research equipment techniques or management.
Slovenia	Unbound, except for measures concerning the entry into and temporary stay, without requiring compliance with an economic need test, of a natural person who falls in one of the following categories: business visitors, intra-corporate transferee.
South Africa	Temporary presence for a period of up to three years, unless otherwise specified, without requiring compliance with an economic needs test, of the following categories of natural persons providing services: services salespersons; intra-corporate transferees.

Source: *Based on Schedules of Specific Commitments on Services of 134 WTO member countries.*

3. The above commitments indicate that only commercial-presence-related categories of persons are excluded from the application of the needs tests. In that respect, all trade in services based on mode 4 could potentially face economic needs tests which have not been explicitly spelled out in commitments but may be contained in the national legislation. Furthermore, unspecified general requirements of residency, authorization, approval, etc., could also contain elements of a needs test.

4. Of 134 WTO members, 67 have used economic needs tests to regulate trade flows in one or more modes and all or selected services sectors. Economic needs tests have qualified commitments on market access in all sectors in a few countries, but others may also apply them since no mechanism exists in GATS to limit the scope of their application. Some countries have identified categories of persons that are likely to be subject to needs tests in their horizontal commitments, but this does not mean that these and other countries would not apply needs tests to categories of persons not included in the schedules of commitments.

TABLE 2

List of economic needs tests in horizontal commitments - market access for natural persons

Country	Relevant extracts from national schedules of specific commitments
Antigua and Barbuda	Normally, a work permit will be issued for a specific period to a non-national to fill a particular post and only when qualified nationals are unavailable. This requirement is to ensure that suitable nationals are given an opportunity to fill the vacancy.
Australia	Specialists, subject to individual compliance with labour market testing, for periods of initial stay up to a maximum of two years with provision of extension provided the total stay does not exceed four years.
Barbados	Prior to a natural person working in Barbados a work permit must be obtained. Labour market tests are conducted.
Belize	Unbound, except for senior managerial personnel and technical experts not available in the local labour market.

Country	Relevant extracts from national schedules of specific commitments
Brazil	Foreign specialized technicians and highly qualified professionals may work under a temporary contract with legal entities, whether of national or foreign capital, established in Brazil. The pertinent contract must be approved by the Ministry of Labour. Approval of contracts of specialized technicians and highly qualified professionals takes into account the compatibility of their qualifications with the area of business in which the company is engaged. The company must justify the need to contract such professionals and technicians in relation to similar professionals and technicians available in Brazil.
Chile	For transfers of specialized personnel within a foreign enterprise established in Chile: Specialized personnel are those highly qualified persons who are indispensable to the supply of the service because of their professional knowledge or: non-availability of such specialized personnel in Chile.
Cuba	Measures on the entry and temporary residence of natural persons in the senior and specialist categories when related to commercial presence under the terms and conditions agreed upon, provided that this personnel is not available in Cuba.
Cyprus	Entry permits for employment are issued on a temporary basis in fields and occupations where no suitably qualified local personnel is available, always taking into account the employment situation and economic needs of the country.
Dominica	The employment of foreign natural persons is subject to Work Permit regulations and labour laws. Issue of permits is normally confined to people with managerial and technical skills which are in short supply or not available in Dominica.
Finland	Temporary entry of specialists - in compliance with labour market tests those persons within the organization, who possess knowledge at an advanced level of expertise or otherwise essential or proprietal to the organization's service, research equipment, techniques or management.
Gambia	Entry and stay of natural persons employed in management and experts jobs for the implementation of foreign investment: the conditions or requirements for an approval for expatriate quota/staff are payment of payroll tax; minimum investment; unavailability of qualified Gambian for the position.
Grenada	The entry of all foreign natural persons is subject to Work Permit Regulations. Issue of permits is normally confined to people with managerial and technical kills which are in short supply or not available in Grenada.
Guatemala	The Labour Code provides the following: employers must employ 90 per cent Guatemalan workers and pay them at least 85 per cent of total wages paid. These requirements may be modified for the following reasons: protection and promotion of the national economy; lack of Guatemalan technical personnel for specific activities; defence of Guatemalan workers who demonstrate their capabilities.
Guyana	Unbound, except with respect to measures relating to senior managerial personnel and technical experts not available in the local labour market
Indonesia	Manager and technical experts (intra corporate transfer) are allowed based on an economic needs test.
Israel	Work permit will be issued in compliance with the labour market tests to those intra-corporate specialists, who possess knowledge at an advanced level of expertise or otherwise essential or proprietal to the organization's service, research equipment, techniques or management
Jamaica	Work permits and visas are normal requirements for entry and in some cases licensing may be a prerequisite for practising in certain specified professional categories. The Work Permit Review Board must be satisfied that the skills to be employed are unavailable locally.
Malaysia	Intra-corporate transferees: Additional specialists or experts may be allowed subject to market test in the relevant services sector or subsector. Others: Specialists or experts being persons who possess knowledge at an advanced level of continued expertise and who possess proprietary knowledge of the organizations's products and services subject to market test and the employment of Malaysians as counterparts and/or training of Malaysians through acceptable training programmes in the relevant services sector or subsector.
Mongolia	Entry and temporary stay of natural persons with managerial and technical skills which are in short supply in Mongolia, and fall within the following categories: business visitors, intracorporate transferees and professionals under a service contract.
Netherlands with respect to	A test of economic needs is applied to all categories of natural persons.

Country	Relevant extracts from national schedules of specific commitments
Netherlands Antilles	
Netherlands with respect to Aruba	For market access and national treatment: As a general rule non-Arubans cannot establish as self-employed. Permission will only be granted if they possess expertise not available in Aruba.
New Zealand	Specialist personnel, subject to labour market tests, as intra-corporate transferees, for periods of stay up to a maximum of three years:
Papua New Guinea	Unbound except for measures affecting the entry and temporary stay of natural persons in the following categories: managers and specialists who possess knowledge that is necessary for the provision of the service. Entry is limited to those of key importance and where employees are unavailable locally.
Poland	Key personnel in conformity with the Polish law meaning managers or specialists, possessing high or uncommon qualifications or knowledge necessary for the functioning of the enterprise. Market test requirement.
Saint Lucia	The employment of foreign natural persons is subject to Work Permit regulations. The issue of permits is normally confined to persons with specialized managerial and technical skills and the administration of the regime is normally guided by a labour market test.
Sierra Leone	Unbound, except for senior management personnel and technical experts not available in the local labour market.
Solomon Islands	Unbound except for measures affecting the entry and temporary stay of natural persons in the following categories: managers and specialists who possess knowledge that is necessary for the provision of the service. Entry and temporary stay is limited to those of key importance and where employees are unavailable locally. Entry is limited to two years initially with any extension subject to Immigration and Labour requirements.
St. Kitts and Nevis	The employment of foreign natural persons is subject to Work Permit regulations. Issue of permits is normally confined to people with managerial and technical skills, which are in short supply or not available in St. Kitts and Nevis.
St. Vin-cent and the Grenadines	The employment of foreign natural persons is subject to Work Permit regulations. Issue of permits is normally confined to people with managerial and technical skills which are in short supply or not available in St. Vincent.
Suriname	Unbound except for measures concerning senior managerial personnel and technical experts not available in the local labour market.
Thailand	A corporate transferee of the managerial or executive level or a specialist, provided has satisfied the criteria for management needs stipulated by the Department of Employment.
United States of America	Specialty occupation aliens and their employers must be in compliance with all labour condition application requirements that are attested to by the established employer. These requirements are: a) wages paid to the person are the greater of: 1) the actual wage paid by the employer to individuals in that place of employment with similar qualifications and experience, or 2) the prevailing wage for that occupational classification in the area of employment; b) conditions of work are such that they will not adversely affect working conditions for those similarly employed; c) there is no strike or lockout in the course of a labour/management dispute in progress at the place of employment affecting the subject occupation; labour/management dispute in progress at the place of employment.
Venezuela	The Ministry of Labour may authorize temporary exceptions to the provision concerning length of stay and those restrictions laid down in the current labour law after having examined a particular case: In the case of activities that require special technical know-how and if there are no Venezuelan personnel available.
Zimbabwe	Entry and temporary stay of intra-corporate transfer of executive and senior managerial personnel and except for specialists, subject to lack of availability in the local labour market.

Source: *Based on Schedules of Specific Commitments on Services of 134 WTO member countries.*

5. A few countries have also referred to the economic needs tests as qualifying their national treatment commitments. The GATS, however, includes economic needs tests among the market access barriers listed in Article XVI (Market Access). Also, the test seems less relevant in regulating market access at the horizontal (covering all sectors) level for commercial presence, where only few cases could be mentioned.

TABLE 3

List of economic needs tests in horizontal commitments - commercial presence

Country	Relevant extracts from national schedules of specific commitments
Grenada	In such circumstances when foreign service providers are permitted to operate, an economic needs test may be required.
Kuwait	Commercial presence in all sectors and sub sectors of Services, shall need prior written permission from competent authorities, and shall be subject to economic needs test and some other considerations.
Netherlands with respect to Netherlands Antilles	Non-Antillians need a permission to establish as self-employed, for which a test of economic needs is applied.

Source: *Based on Schedules of Specific Commitments on Services of 134 WTO member countries.*

C. Economic needs test in specific commitments in different services sectors

6. The existence of economic needs tests has been noted in the GATS schedules of specific commitments in various services sectors. However, their relevance differs from sector to sector. Financial services, including banking and insurance, is a sector where economic needs tests have been quite important, and a number of professional and business services in general have had a relatively high incidence of the application of economic needs tests. In particular, medical and educational services, due to their dual - social and economic - function, as well as retail services and transportation, have often been safeguarded by needs tests. Interestingly enough, the application of economic needs tests has also been frequent in the tourism sector with respect to hotels and restaurant services, even in countries which have shown strong export performance in the sector. Tourism creates significant spill-over effects for employment, and the role that economic needs tests play in these sectors is likely to be that of the safeguard measure. For cases like these, the availability of emergency safeguard mechanism in the GATS could eliminate the need for recourse to needs tests.

TABLE 4

List of economic needs tests in sector-specific commitments

(Note: the following commitments refer to market access in mode 3 unless otherwise indicated)

Country	Relevant extracts from national schedules of specific commitments
Bulgaria	**Medical and dental:** Access is granted only to foreign natural persons and exclusively for the conduct of private professional practice. Registration and authorization based on economic needs test and consent by a professional organization. **Veterinary services**: Access is granted to natural persons exclusively for the conduct of private professional practice and under the conditions of authorization by the veterinary authorities. Economic needs test. **Distribution services: Wholesale:** Economic needs test. **Retail**: Economic needs test for the establishment of department stores.
Côte d'Ivoire	**Engineering services/ technical testing and analysis services/construction and related engineering services:** *National treatment*: Enterprises must receive government approval. The criteria to be met in order to obtain approval may include: the preferential use of local services to the extent that they are available under conditions of quality, price and delivery equivalent to those of like products of foreign origin.
Czech R.	**Travel agencies and tour operators**: Economic needs test based on population criterion.
Egypt	**Hotels, restaurants:** A licence will be given according to the requirement of economic needs test. Limitations on the total number of services operations depend on the requirement of economic needs test. **Travel agencies and tour operators:** Limitations on the total number of services operations depend on the requirement of economic needs test.

Country	Relevant extracts from national schedules of specific commitments
Egypt (cont'd)	**Tourism management services:** Bound only for representative offices. Limitations on the total number of services operations depend on the requirement of economic needs test.
European Union	**Medical, dental and midwifes services:** *Germany*: Access restricted to natural persons only. Economic needs test for medical doctors and dentists who are authorized to treat members of public insurance schemes. The criterion is shortage of doctors and dentists in the given region. **Services provided by nurses, physiotherapists and paramedical personnel (mode 4):** *Italy*: Subject to economic needs test: decision is subject to regional vacancies and shortages. **Supply of pharmaceutical goods to the general public (pharmacists)**: *Belgium, Denmark, Ireland, Portugal*: Economic needs test. *Spain, Italy*: Establishment of new pharmacies is subject to an economic needs test. **Other business services, construction, distribution and tourism services (mode 4):** *France*: The managing director of an industrial, commercial or artisanal activity, if not holder of a residence permit, needs a specific authorization. *Italy*: Access to industrial, commercial and artisanal activities is subject to a residence permit and specific authorization to pursue the activity. **Retailing services**: *Belgium*: Economic needs test for department stores. *Denmark*: Economic needs test for new department stores. *France*: Economic needs test for larger department stores. *Italy*: Economic needs test on establishment of any new department store/outlet and authorization can be denied in order to protect areas of particular historic and artistic interest. *Portugal*: Economic needs test for large (i.e. more than 2000 sq. m.) department stores. **Higher education services**: *Spain, Italy*: Needs test for opening of private universities authorized to issue recognized diplomas or degrees, procedure involves an advice of the Parliament. **Hospital services**: *Belgium*: The number of beds and use of heavy medical equipment is limited on the basis of a health plan. The needs test is in function of the degree of specialization, their capacity and equipment. The criteria are fixed, arithmetical rules or formulae designed to calculate the needs in function of the population, age scale, death rate and geographical spread. *Netherlands*: Quantitative economic needs test fixed by a health plan allowing for a maximum number of beds related to the population of each health region. *Spain*: Prior authorization is required by the "autonomous communities" based on an economic needs test taking into account the population and already existing health services in the given health regions. **Hotels, restaurants and catering**: *Italy*: Local economic needs test on opening of new bars, cafés and restaurants, authorization can be denied in order to protect areas of particular historic and artistic interest. **Travel agencies and tour operator services:** *Italy*: Economic needs test. **Entertainment services (mode 4):** *Italy*: Economic needs test. **sporting and other recreational services (mode 4)** *Italy*: Economic needs test. **Passenger transportation by road:** *Spain*: Economic needs test. **Taxi services:** *All Member States*: economic needs test. **Limousine services:** *Italy*: Access for natural persons only, and economic needs test. *Portugal*: Economic needs test. **Intercity bussing services:** *Italy, Spain, Ireland*: Economic needs test. *Denmark*: Economic needs test and residence and citizenship requirement for the manager. **Freight transportation by road:** *Italy*: For transport within the country, licensing subject to an economic needs test.
Fiji	**Hotels, motels, etc. (mode 4):** Normal government approval required for foreign nationals. Entry limited to key-post management and time-post skilled employees where these are unavailable locally. **Restaurants:** Normal government approval and registration required for all foreign investors. Limited to speciality restaurants and hotel restaurants, where speciality restaurants unavailable. **(mode 4):** Entry limited to management and skilled employees, where these are unavailable locally.
Grenada	**Hotels:** Subject to alien landholding regulations, exchange control regulations. Limited to the developments of hotels in excess of 100 rooms. Hotel development of less than 100 rooms may be subject to an economic needs test.
Latvia	**Private medical and dental services (modes 3 and 4):** Nationality requirement. Practice of medical profession by foreigners requires the permission from local health authorities, based on economic needs for medical doctors and dentists in a given region.

Country	Relevant extracts from national schedules of specific commitments
Latvia (cont'd)	**Services provided by midwives, nurses in private establishments (mode 4):** Economic needs determined by the total number of nurses and midwives in the given region, authorized by local health authorities. **Private hospital services:** Need authorization by local health authorities. The number of beds and use of heavy medical equipment is based on needs of population, age scale and death rate.
Liechtenstein	**Hotels and restaurants:** Licence only granted if need for restaurants exist.
Malaysia	**Private hospital:** Economic needs test.
Norway	**Passenger and freight road transportation:** Passenger transportation shuttle services and other regular trips require establishment; economic needs test is based on traffic criterium.
Philippines	**Road (passenger and freight) transport:** New entrants are subject to economic needs test, as follows: (a) the need to provide protection to investment of operators in unserved areas/developmental routes; and (b) the route measured capacity test for number of vehicles.
Republic of Korea	**Other business services (purity testing):** Establishment of a commercial presence is subject to the economic needs test. **Wholesale trade services:** Following services are subject to the economic needs test: wholesale markets with floor space of more than 3,000m^2 ; large stores with floor space of more than 3,000m^2; wholesale trade centers, wholesale trade of used cars; wholesale trade of gaseous fuels and related products; foreign trade services. **Retail**: Retailing services for used cars and gaseous fuels are subject to the economic needs test. **Refuse disposal**: Establishment of a commercial presence is subject to the economic needs test. **Environment testing**: Establishment of a commercial presence is subject to the economic needs test. **Freight forwarding for rail transport:** Licenses are granted only to international shipping companies, subject to the economic needs test. **Composition and purity testing:** Establishment of a commercial presence is subject to the economic needs test.
Solomon Islands	**General construction work for civil engineering (mode 1):** *Market access and national treatment:* Unbound except where resources and materials are not available locally.
Swaziland	**Integrated engineering services (mode 4)**: Unbound except for professional personnel with a higher university degree or professional training and who are not available in Swaziland. **Consultancy services related to the installation of computer hardware (mode 4):** Unbound except for senior computer engineers and personnel that possess specialized training and skill and who are not available in Swaziland. **Management consulting (mode 4):** Unbound except for personnel with a senior university degree or professional training who are not available in Swaziland.
Sweden	**Doctors and dentists (mode 4)**: Needs test applied to decide the number of private practices to be subsidized through the social security system. **Other health personnel:** Needs test applied to decide the number of private practices to be subsidized through the social security system. **Veterinary service:** Needs test applied to decide the number of private practices to be subsidized through the social security system. **Retail:** Individual municipalities may apply economic needs test to temporary trade in clothing, shoes and foodstuffs that are not consumed at the point of sale.
Switzerland	**Hotels and restaurants:** Federal law enables cantons to grant licence for restaurants based on economic needs
Tanzania	**Hotels (mode 4):** Unbound except for measures concerning senior managers who possess skills not available in Tanzania.
Uganda	**Hotels and restaurants: (mode 4)** Unbound except for technical personnel except where Ugandans are or become available. **Travel agencies/ tour operators (mode 4):** Unbound except for technical personnel except where Ugandans are or become available. Entry and temporary stay of foreign service suppliers subject to compliance with laws, regulations and guidelines in force in Uganda.
United States of America	**Hospitals:** Establishment of hospitals or other health care facilities, procurement of specific types of medical equipment, or provision of specific types of medical procedures may be subject to needs-based quantitative limits.

Source: *Based on Schedules of Specific Commitments on Services of 134 WTO member countries.*

D. Binding economic needs test

7. On the other hand, a number of countries have indicated or suggested criteria for the application of economic needs tests. Though factors with respect to which needs are evaluated are often sector-specific, common features may emerge. Based on these common elements, a general criterion for the application of economic needs test could be elaborated. Also, additional provisions could be developed which would prevent the introduction of economic or similar needs tests in any other instruments regulating market access. To the extent that the remaining sectors and occupations would remain subject to the application of economic needs tests, efforts should be made to reduce the scope for arbitrary and discriminatory practices, provide greater transparency and introduce more neutral economic criteria. A reference paper could be drafted that would lay down principles of application of economic needs tests. The principles should address the definition and criteria for the introduction of economic needs tests, which could be quantitative and/or qualitative, applications, procedures, duration, etc. A number of elements are referred to in individual schedules in different services sectors, and where the establishment is subject to an economic needs test, the main criteria taken into account are:

- Population, the number of existing pharmacies and their geographical density;
- The number of and impact on existing stores, population density, geographic spread, impact on traffic conditions and creation of new employment;
- The number of service suppliers in the local geographic area;
- Existing public transport on the route concerned;
- The measured route capacity for number of vehicles;
- The need to provide protection for investment of operators in underserved areas/developmental routes.
- Size of fully paid-up capital; employment creation; extent of foreign investment; export promotion; transfer of technology; special needs of the management;
- Market needs and location of different categories of hotels;
- Geographical location, increase in the number and categories of tourists;
- Population, degree of built-up area, type of neighbourhood, tourism interests, number of existing restaurants.

Source: *Based on Schedules of Specific Commitments on Services of 134 WTO member countries.*

8. It would seem extremely unlikely that WTO members would agree to dispense with the economic needs tests in their horizontal commitments. The possible elimination of economic needs tests would have to be pursued on the basis of service sectors and/or categories of persons. One of the ways to reduce the scope for the application of economic needs tests could be for countries to agree on certain services sectors where the movement of the natural persons would be excluded from the general application of the economic needs test. The horizontal commitments on mode 4 would thus be supplemented by the list of service sectors where the economic needs test would not be applied to the movement of natural persons supplying services. For example, the liberalization negotiations in the environmental services sector could be extended to the removal of the economic needs test for mode 4, where the movement of those providing management consulting, setting up the establishment to provide the environmental services, performing related training of the personnel, etc., is an important component of the service. Concepts used elsewhere in multilateral trade agreements such as "minimum" market access or "current" market access could also be considered in this context in establishing a minimum quota for trade-related test-free market access of natural persons.

9. The sectoral approach in establishing the economic needs test exemption list may seem

too broad in some cases, since commitments in mode 4 would apply to natural persons of all professions supplying services in a given sector. The economic needs test exemption list could then be created based on the occupation approach. The ILO International Standard Classification of Occupations (ISCO), as an internationally adopted classification, has defined nine major occupation groups: (1) legislators, senior officials and managers; (2) professionals; (3) technicians and associate professionals; (4) clerks; (5) service workers and shop and market sales workers; (6) skilled agricultural and fishery workers; (7) craft and related trades workers; (8) plant and machine operators and assemblers; (9) elementary occupations. These groups are further sub-divided into sub-major, minor and unit group titles that have corresponding detailed definitions. Not all of these occupations are equally important to the movement of persons in the context of international trade in services. Agreement could be reached multilaterally as to which among them should be selected, and on that basis occupational list could be established. Occupational list would introduce greater comparability and balance in specific commitments for mode 4, since a single system of definitions would be adopted. It may be noted that a similar approach has been used in the GATS in establishing services sectoral classification list, which was based on the then Provisional UN Central Product Classification. The occupation list could then be used to identify those occupations for which economic needs tests could be waived in all sectors or in selected sectors, listed separately and subject to individual schedules of commitments.

10. However, even where persons meet the criteria set under mode 4, whether or not subject to an economic needs test, the administration of the visa regime can pose another barrier to trade through movement of persons. Thus, efforts should be made to streamline visa regimes when visa issuance is requested for the trade-related movement of persons. The categories of natural persons and occupations that are included into the schedules of commitments should qualify to obtain entry visas, i.e. GATS visas, either automatically or for multiple entries over a long period. It must be noted that economic needs tests operate as a barrier to trade in cases where the persons involved are employed by an entity in the importing country (either a domestic firm or a foreign firm established there). However, visa regimes also affect business visitors whose travel is linked to making business contacts or setting up a new business. Initiatives in the regional context to improve the conditions under which business visitor visas are granted should be brought into the WTO.